

**Hurford, Patrick J.**

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**From:** Hurford, Patrick J. [REDACTED]  
**Sent:** Monday, October 21, 2019 7:20 PM  
**To:** Parker, Janet (USAMIE); DePorre, Jules (USAMIE)  
**Cc:** Pendery, Mark S.  
**Subject:** RE: Special Agent Scott Hollabaugh

Jules and Janet,

I'm afraid that if we are apart on the relevance of SA Hollabaugh's testimony concerning the transactions giving rise to the alleged capital gain, the Court will need to get involved.

Please consider this our Rule 7.1 opposition to the relief sought by the motion to quash I expect you to file. Absent an order granting such motion, we will expect SA Hollabaugh to be at the hearing.

Patrick J. Hurford

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**HONIGMAN LLP**  
[REDACTED]

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**From:** Parker, Janet (USAMIE) [REDACTED]  
**Sent:** Monday, October 21, 2019 5:15 PM  
**To:** Hurford, Patrick J. [REDACTED]; DePorre, Jules (USAMIE) [REDACTED]  
**Cc:** Pendery, Mark S. [REDACTED]  
**Subject:** RE: Special Agent Scott Hollabaugh

Gentlemen;

Upon consideration of your email below, and the briefs exchanged by the parties, we cannot conclude that Special Agent Hollabaugh's grand jury testimony or his interpretation of James Pieron's financial records are relevant matters for inquiry during the currently scheduled evidentiary hearing regarding sentencing issues. Accordingly, we are affording you an opportunity to specify some other line(s) of inquiry that you intend to pursue that, in turn, will allow us to conclude that Agent Hollabaugh's testimony should be allowed under *Touhy*.

Jules and Janet

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**From:** Hurford, Patrick J. [REDACTED]  
**Sent:** Friday, October 04, 2019 4:37 PM  
**To:** Parker, Janet (USAMIE) [REDACTED]; DePorre, Jules (USAMIE) [REDACTED]  
**Cc:** Pendery, Mark S. [REDACTED]  
**Subject:** RE: Special Agent Scott Hollabaugh

Janet and Jules,

Thank you for accepting service of this subpoena.

As for the Touhy requirements, we believe this email is sufficient.

We seek testimony from SA Scott Hollabaugh concerning matters he investigated during the course of the grand jury investigation. Including, but not limited to, his statement that he had reviewed and was in possession of "bank records showing the wire transfers to Mr. Pieron for the \$10,000,000 capital gain."

If one views the subpoena of SA Hollabaugh through the IRS lens, under the example section of 26 C.F.R. s 301.9000-6, Example 4 makes clear that "no IRS testimony authorization is required regarding the information collected by the IRS special agent when the IRS agent was acting under the direction and control of the United States Attorney's Office in [a] Federal grand jury investigation."

As for the Department of Justice, the DOJ Policy Manual, Title 1-611 states that Department's Touhy regulations do not apply where the testimony sought is from a "federal employee employed by an agency other than the Department of Justice." In such instances, the employing agency's policies govern. And here, in the case of the IRS and SA Hollabaugh, no authorization is required (as noted above).

If you believe this e-mail (and attached subpoena) is not sufficient to secure the attendance and testimony of SA Hollabaugh at the tax loss hearing, please let me know.

Patrick

Patrick J. Hurford

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HONIGMAN LLP  
[REDACTED]

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**From:** Parker, Janet (USAMIE) [REDACTED]  
**Sent:** Tuesday, September 10, 2019 3:35 PM  
**To:** Pendery, Mark S. [REDACTED]; DePorre, Jules (USAMIE) [REDACTED]  
**Cc:** Hurford, Patrick J. [REDACTED]  
**Subject:** RE: Special Agent Scott Hollabaugh

Hello, Mark;

Either of us will accept service of a subpoena for Agent Scott Hollabaugh. However, you must be mindful of *Touhy* requirements.

Jules and Janet

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**From:** Pendery, Mark S. [REDACTED]  
**Sent:** Tuesday, September 10, 2019 2:47 PM  
**To:** Parker, Janet (USAMIE) [REDACTED]; DePorre, Jules (USAMIE) [REDACTED]  
**Cc:** Hurford, Patrick J. [REDACTED]  
**Subject:** Special Agent Scott Hollabaugh

Janet/ Jules:

I named Agent Hollabaugh as a witness at the tax loss hearing. Do you want me to send the subpoena to you since he is the client or should I serve him directly. I am sure he will be present at the hearing anyway as the lead agent but I want to cover all the bases. Please advise. Thank you both.

Mark S. Pendery

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HONIGMAN LLP

[REDACTED]

This e-mail may contain confidential or privileged information. If you are not the intended recipient, please delete it and notify the sender of the error.